

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 6430

BILL NUMBER: HB 1109

NOTE PREPARED: Jan 1, 2008

BILL AMENDED:

SUBJECT: Credit Time under Criminal Sentences.

FIRST AUTHOR: Rep. Goodin

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill creates Department of Correction credit Class IV for felons who are: (1) sex offenders; or (2) convicted of Class A or Class B felonies. It specifies that persons in credit Class IV earn one day of credit for each six days of incarceration. It provides that persons in credit Class IV may be placed in a credit class where they earn no credit but may not be placed in a credit class where they earn more credit.

Effective Date: July 1, 2008.

Explanation of State Expenditures: *Summary-* Under current law, offenders are placed in one of three credit classes based on their conduct in the facilities where they are housed. Credit time refers to the number of days of incarceration that are removed from an offender's sentence for each day they are in the designated credit class.

<u>Credit Class</u>	<u>Credit Time</u>
Class I	One day credit time for each day in Class I
Class II	One day credit time for two days in Class II
Class III	No credit time

All offenders are initially placed in Credit Class I. They may be reassigned to Class II or III if they violate any rule of the penal facility, the Department of Correction (DOC), or the community transition program.

As proposed, a new credit category, Class IV, would be established for offenders who have been convicted and sentenced for certain crimes. These offenders would serve six days in a DOC facility before they are permitted to receive any credit time.

The following chart represents the additional offenders that will be added and the additional prison cells that will be needed each year. Beginning in FY 2010, Class D felony offenders would remain in DOC for an additional 6 months, increasing the need for 45 new beds. For purposes of this analysis, it is assumed that the state would pay all construction costs in the year that the new beds are added so that no costs of debt are incurred. As Class C felons remain in DOC facilities for an additional 1.3 years, the accumulated offender population would grow to 248 in 2011 and 309 in 2012. Class B felony offenders would begin their added period of incarceration in 2013 and stay for an additional 2.7 years. By 2015, 4,921 additional offenders would be in DOC facilities. Class A felons sentenced in 2008 would begin their added period of incarceration in 2023 and not be released until 2032. The added population from the extended stay of the Class A offenders would increase the new offender population to 7,873 by 2031.

Projected Number of Beds Needed and Added Operating and Capital Costs (in \$ Millions)														
Fiscal Year	'10	'11	'12	'13	'14	'15	'23	'24	'25	'26	'27	'28	'29	'31
New Offenders	45	203	61	1708	1708	1196	328	328	328	328	328	328	328	328
Accumulated		248	309	2,017	3,725	4,921	5,249	5,577	5,905	6,233	6,561	6,889	7,217	7,873
New Operating Costs (1)	\$0.9	\$4.8	\$5.9	\$38.7	\$71.5	\$94.4	\$101	\$107	\$113	\$120	\$126	\$132	\$138	\$151
New Beds Needed	45	203	61	1,708	1,708	1,196	328	328	328	328	328	328	328	328
New Capital Costs (2)	\$2	\$10	\$3	\$85	\$85	\$60	\$16	\$16	\$16	\$16	\$16	\$16	\$16	\$16
Total Costs	\$3	\$15	\$9	\$124	\$157	\$154	\$117	\$123	\$130	\$136	\$142	\$149	\$155	\$167
(1) Based on FY 2007 Operating Costs of \$19,185 in Constant Dollars														
(2) Based on Average Cost of \$50,000 per Bed in Constant Dollars														

Projected Need for New Beds – The added population that the Department of Correction will need to accommodate will depend on at least two factors:

(1) The rate that offenders who are released from DOC are recommitted because of new crimes. This recidivism rate assumes that a percentage of offenders will return to DOC facilities because they committed a new crime or violated a technical condition of probation, parole, or some other type of community supervision. For this estimate, a 40% recidivism rate was used. This means that 40% of these offenders will likely return to DOC within their first year of release because they commit a new crime. Since these 40% are assumed to return to prison anyway, the new beds will be for the 60% of the offenders who would not otherwise be returning within one year.

(2) The additional length of time that offenders will be incarcerated in DOC facilities because offenders will spend 83% of their time incarcerated rather than 50%. The following table shows the year of earliest release for offenders who were committed during CY 2005 if they were to be released after spending 83% of their sentence incarcerated.

Felony Level	Offenders Committed Annually	Average Prison Term in Years	Year of Release If Offenders Are Sentenced in 2008			
			50% of Sentence Served		83% of Sentence Served	
			Years Spent in Prison Before Release	Earliest Year of Release	Years Spent in Prison Before Release	Earliest Year of Release
A	547	29	14.5	2023	24.2	2032
B	2,846	8	4	2012	6.7	2015
C	339	4	2	2010	3.3	2011
D	75	2	1	2009	1.7	2010

Effect on Earned Credit Time – Offenders who are not in Credit Class I may enroll in academic and vocational education programs. Offenders who are in Credit Class I and who earn GEDs, high school diplomas, college degrees, and or obtain certificates of completion of vocational programs are eligible for reductions in incarceration time. Consequently, this bill would reduce the number of offenders who would be eligible for earned credit time reduction.

Background: The following table shows the types of offenses which offenders committed to DOC in CY 2006 were convicted of committing and would stay for 83% of their sentence instead of 50%.

Offense	FA	FB	FC	FD	Grand Total
Aggravated Battery		56			56
Aid in Cause Offense		38			38
Arson	1	40			41
Att. Commit Felony	82	135	2	2	221
Batt a Child W/death	1				1
Battery	3	21			24
Burglary	10	489			499
Carjacking		24			24
Causing Suicide		1			1
Child Exploitation			11	5	16
Child Molesting	115	113	204	2	434
Child Seduction				5	5
Child Solicitation			5	5	10
Conspiracy	33	106			139
Criminal Deviate Conduct	5	27			32
Criminal Confinement		51			51
Dangerous Controlled Handgun		1			1
Dealing-coke/Narcotic	186	873			1,059
Dealing-schedule 1,2,3	6	116			122
Dealing-schedule 4		2			2
Dealing-schedule 5		2			2
Escape		3			3
Felon Firearm Poss		105			105
Illegal possession Schedule IV		2			2
Incest		4	8		12
Kidnaping	8				8
Neglect of Dependant causing death	3				3
Neglect of Dependent		15			15
OWI causing death		29			29
Possession of coke/narcotic	25	105			130
Promoting prostitution under 18		3			3
Promote Prostitution			8		8
Rape	17	38			55

<u>Offense</u>	FA	FB	FC	FD	Grand Total
Resist Law Enforcement		1			1
Robbery	19	345			364
Sex Misconduct-minor	1	93	96		190
Sexual Battery			2	46	48
Stalking		1			1
Vicarious Sex Gratification		1	3	10	14
Voluntary Manslaughter	32	6			38
Grand Total	547	2,846	339	75	3,807

Explanation of State Revenues:

Explanation of Local Expenditures: Depending on how quickly new facilities can be built for DOC offenders, DOC may need to contract with county sheriffs to house some of the offenders who do not require highly secure cells. Currently, county sheriffs are paid by the state \$35 per day per offender.

Explanation of Local Revenues:

State Agencies Affected: Department of Correction, Office of Attorney General.

Local Agencies Affected: County sheriffs.

Information Sources: Department of Correction Data Base; IC 35-50-6-3.3.

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